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Attorneys for Plaintiff and Counter-Defendant
 COMMONWEALTH ANNUITY AND LIFE INSURANCE
 COMPANY f/k/a ALLMERICA FINANCIAL LIFE INSURANCE
 AND ANNUITY CO.,

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

COMMONWEALTH ANNUITY AND
 LIFE INSURANCE COMPANY f/k/a
 ALLMERICA FINANCIAL LIFE
 INSURANCE AND ANNUITY CO.,

Plaintiff,

vs.

JOHN DALESSIO; RITA DALESSIO; and
 the DALESSIO FAMILY 2003 TRUST,

Defendants.

JOHN DALESSIO; RITA DALESSIO and the
 DALESSIO FAMILY (2003) TRUST,

Counter-Claimants,

vs.

COMMONWEALTH ANNUITY AND LIFE
 INSURANCE COMPANY f/k/a ALLMERICA
 FINANCIAL LIFE INSURANCE AND ANNUITY
 COMPANY, a Delaware corporation; DAVID
 SHANE, an individual; VAUGHN R. WALKER,
 an individual; ANN SPARKMAN, an individual;
 and DOES 1 through 20,

Counter-Defendants.

Case No. CV 08 1739 EDL

PLAINTIFF'S CMC STATEMENT

Date : August 14,
 2008
 Time : 3:30 p.m.
 Courtroom : Judge Vaughn
 Walker

1 Plaintiff and Counter Defendant COMMONWEALTH ANNUITY AND LIFE
2 INSURANCE COMPANY f/k/a ALLMERICA FINANCIAL LIFE INSURANCE AND ANNUITY
3 CO. ("Allmerica") for itself alone hereby submit this Case Management Conference
4 Statement:

5 Despite numerous calls to Mr. Dalessio Allmerica has not been able to contact
6 Mr. Dalessio to discuss any aspect of this matter. Allmerica has received neither disclosures
7 nor documents from him.

8 Once communication is established to insure that the deposition can proceed,
9 Allmerica intends to take the deposition of Dalessio to ascertain the substance of any
10 allegations. Allmerica will then move for summary judgment to force payment of the
11 settlement agreement and to dismiss the counter claim.

12 Allmerica has not heard from Dalessio and does not know what the status of
13 Mr. Dalessio's position.

14
15 DATED: August 12, 2008

16
17 SHANE & TAITZ

18
19 /s/ David R. Shane
20 By: _____
21 David R. Shane
22 Attorneys for Plaintiff/Counter-
23 Defendant COMMONWEALTH
24 ANNUITY AND LIFE INSURANCE
25 COMPANY f/k/a ALLMERICA
26 FINANCIAL LIFE INSURANCE
27 AND ANNUITY CO.
28

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4 **PROOF OF SERVICE BY MAIL**

5 **Commonwealth Annuity, etc. vs. Dalessio, et al.**

6
7 I declare that I am employed in the County of Marin, State of California. I
8 am over eighteen years and not a party to the within cause; my business address is Shane
9 & Taitz, 1000 Drakes Landing Road, Suite 200, 2nd Floor, Greenbrae, California 94904-3027.

10 On August 12, 2008, I served upon the interested party/parties hereto the
11 within document, described as:

12 **Plaintiff's CMC Statement**

13
14 by enclosing said document in a sealed envelope at Greenbrae, California. I am readily
15 familiar with the firm's practice of collection and processing of items for mailing. Under
16 that practice, each item is deposited with the United States Postal Service on that same
17 day with postage thereon fully prepaid at Greenbrae, California, during the ordinary
18 course of business. I am aware that on motion of the party served, service is presumed
19 invalid if the postal cancellation/meter date is more than one day after date of deposit for
20 mailing in affidavit. The item mailed is addressed, as follows:

21 **Refer to Attached Service List**

22
23 I declare under penalty of perjury of the laws of the State of California that
24 the foregoing is true and correct.

25 This declaration was executed on August 12th, 2008 at Greenbrae,
26 California.

27 /s/ Molly B. Libbey
28 Molly B. Libbey

SERVICE LIST

Commonwealth Annuity, etc. vs. Dalessio, et al.

Defendants and Counter-Claimants

JOHN DALESSIO
16 Via Las Encinas
Carmel Valley, California 93924-9449

RITA DALESSIO
16 Via Las Encinas
Carmel Valley, California 93924-9449

DALESSIO FAMILY [2003] TRUST
16 Via Las Encinas
Carmel Valley, California 93924-9449